

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Andreas Kunkel et al.

Serial No.: 10/549,871

Filed: 09/16/2005

Title: METHOD FOR PRODUCING ERGOSTA-5,7-DIENOL AND/OR  
BIOSYNTHETIC INTERMEDIATE AND/OR SECONDARY PRODUCTS  
THEREOF IN TRANSGENIC ORGANISMS

Art Unit: 1652

Examiner: Tekchand Saidha

Confirmation No.: 2451

Docket No.: 7003/55

Via EFS WEB  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**ASSERTION OF SMALL ENTITY STATUS UNDER 37 CFR 1.27(c) AND  
REQUEST FOR REFUND OF OVERPAYMENT OF FEES**

Sir:

This is a Request to Correct the applicant's status from large entity to small entity and to request a refund of the previous overpayment of certain fees.

The undersigned attorney's office received the above-referenced application from a German associate in September 2006, Dr. Bernhard Jungblut of the firm Jungblut & Seuss of Berlin, Germany, after having transferred responsibility for this application from the former attorney of record. At the time of the file transfer, the application was assigned to BASF Aktiengesellschaft, which was not entitled to the benefit of small entity status. Dr. Jungblut advised at that time that BASF Aktiengesellschaft would then assign the application to OrganoBalance GmbH. Recordation of the Assignment to OrganoBalance GmbH was recorded on November 21, 2006. Dr. Jungblut did not advise, however, that OrganoBalance GmbH qualified for small entity status and therefore, prosecution of the application has been conducted

to date without the benefit of small entity status and the associated fee reduction. Dr. Jungblut first advised that, in fact, the current Assignee is entitled to small entity status, and has been entitled to small entity status since November 21, 2006, in a communication dated March 24, 2009, in response to having received notification of the mailing of a Notice of Allowance. The issue fee is due in this matter today, June 3, 2009, and is being filed simultaneously herewith, noting the entitlement to small entity status. The small entity issue fee is being paid accordingly.

In view of the above, it is respectfully requested that the US PTO refund the following official fees which were incorrectly paid at the large entity rate:

FILING DATE OF ORIGINAL PAPER/FEE	TYPE OF FEE PAID	AMOUNT ORIGINALLY PAID AS LARGE ENTITY	CURRENT FEE AMOUNT AS A SMALL ENTITY	REFUND (AMOUNT ORIGINALLY PAID LESS CURRENT FEE AMOUNT)
8/13/2007	3-mo extension fee	\$1,020	\$ 555	\$ 465
	Addl Claims (2)	\$ 100	\$ 52	\$ 48
	Addl Indep Claims (1)	\$ 200	\$ 110	\$ 90
5/14/2008	3-mo extension fee	\$1,050	\$ 555	\$ 495
	RCE fee	\$ 810	\$ 405	\$ 405
1/6/2009	2-mo extension fee	\$ 490	\$ 245	\$ 245
	RCE Fee	\$ 810	\$ 405	\$ 405
		<b>TOTAL TO BE REFUNDED</b>		<b>\$2,153</b>

The PTO is hereby requested to refund the total overpayment in the amount of \$2,153 to the undersigned attorney's PTO Deposit Account, #50-1047 (all fees paid were originally charged to the undersigned attorney's PTO Deposit Account). The undersigned submits that such a refund is proper pursuant to 37 CFR 1.26, and is further proper pursuant to 37 CFR 1.27(c), as the necessary assertion of small entity status has been made herein.

Respectfully submitted,

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**Certificate of Electronic Transmission Under 37 C.F.R. §1.8**

I hereby certify that this correspondence and any document referenced herein are being electronically deposited with the USPTO via EFS-Web on 06/03/2009.

Marjorie Scariati  
(Printed Name of Person Sending Correspondence)

/Marjorie Scariati/

(Signature)